

Office of the State Public Defender

Administrative Policies

Subject: Client Grievance Procedure	Policy No.: 110
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1.0 POLICY

The Office of the State Public Defender has established the following procedures for clients alleging grievance against the public defender attorney assigned to the client's case.

2.0 PROCEDURE

2.1 WRITTEN COMPLAINT

Any client alleging grievance against the public defender attorney assigned to the client's case shall complete a written statement of grievance and submit it to the appropriate regional deputy public defender.

2.2 IMMEDIATE ACTION ON WRITTEN COMPLAINT

Upon receipt of a signed, written complaint against a public defender, the regional deputy shall take the following immediate actions:

- A. Contact the complainant (either in person or via telephone call) for the purpose of obtaining further clarification regarding the facts alleged;
- B. Provide the respondent attorney with a complete copy of the complaint and follow up statement, if any;
- C. Carefully review the complaint; and
- D. Meet in person with the respondent attorney to discuss appropriate action to be taken.

2.3 WRITTEN DECISION BY REGIONAL DEPUTY PUBLIC DEFENDER

Following step 2.2, the regional deputy shall make an initial decision regarding action, if any, to be taken by the respondent attorney and shall, thereafter, advise the complainant of the decision in writing.

2.4 DETERMINATION DENYING CHANGE OF COUNSEL; APPEAL PROCESS

- A. Failure of the Complaint to Set Forth Adequate Grounds for Change of Counsel: If the regional deputy determines that the complaint fails to establish adequate grounds for change of counsel, the regional deputy shall so advise the complainant in writing on a form approved by the Chief Public Defender. In addition, the regional deputy shall personally notify the complainant of the decision in person or via telephone call. Any decision denying a complainant's request for change of attorney shall inform the complainant of the right to file a request for further review by

the Grievance Review Officer for the Office of the State Public Defender, as designated by the Chief Public Defender.

- B. Appeal to Grievance Review Officer: If the complainant disagrees with the decision of the regional deputy public defender, the complainant shall notify the regional deputy of that fact at the time the regional deputy notifies the complainant of the fact of denial. In such event, the regional deputy shall mail the grievance packet (containing a copy of the original complaint and a copy of the regional deputy's decision) to the Grievance Review Officer at his/her address of record.
- C. Review and Decision by Grievance Review Officer: Within three working days of receipt of a grievance packet, the Grievance Review Officer shall issue a written decision either upholding the regional deputy's decision or reversing it with instructions to implement an immediate change of counsel. The Grievance Review Officer may, but is not required to, consult with the complainant prior to issuing the decision. If the Grievance Review Officer upholds the decision to deny a change of counsel, the Grievance Review Officer shall notify the complainant in person of the fact that the complainant retains the right to request a change of counsel from the appropriate court.
- D. Motion for Change of Counsel: If the complainant decides, after proper notification from the Grievance Review Officer, that the complainant nonetheless wishes to pursue the grievance with the court of record, the Grievance Review Officer shall notify counsel of record in writing to immediately file an appropriate motion.

2.5 DETERMINATION APPROVING CHANGE OF COUNSEL

Adequacy of the Complaint to Support Change of Counsel: If the regional deputy decides that the complaint does provide adequate grounds for change of counsel, the regional deputy shall immediately effectuate a substitution of counsel and shall advise the complainant, the attorney of record, new counsel, and the court. Reasons for the change shall be documented in the regional deputy's file but shall not be provided to the court, to new counsel, or to opposing counsel. The notice of substitution shall conform to standard pleadings of the jurisdiction.

3.0 CLOSING

Questions about this policy should be directed to the Central Office at the following address:

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44 West Park
Butte, MT 59701
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